

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Dylan Stellick,

Civ. No. 21-2016 (PAM/JFD)

Plaintiff,

v.

ORDER

Minnesota Department of Corrections,

Defendant.

This matter is before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge John F. Docherty dated November 1, 2021. (Docket No. 5.) The R&R recommends that Plaintiff Dylan Stellick’s petition for writ of habeas corpus be dismissed without prejudice for failure to exhaust state administrative remedies and failure to prosecute. No party objected to the R&R, and the time to do so has passed. D. Minn. L.R. 72.2(b)(1).

This Court must review de novo any portion of an R&R to which specific objections are made, but in the absence of objections, the Court reviews the R&R only for clear error. 28 U.S.C. § 636(b)(1); D. Minn. L.R. 72.2(b); see also Grinder v. Gammon, 73 F.3d 793, 795 (8th Cir. 1996) (noting that district court need only review un-objected-to R&R for clear error). The Court has reviewed the R&R and finds no error, clear or otherwise, in the Magistrate Judge’s reasoning.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The R&R (Docket No. 5) is **ADOPTED**;
2. The Application to Proceed in District Court without Prepaying Fees or Costs (Docket No. 2) is **DENIED as moot**;
3. The Petition (Docket No. 1) is **DENIED without prejudice** for failure to exhaust state remedies; and
4. No certificate of appeal ability will issue.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: Monday, November 22, 2021

s/ Paul A. Magnuson

Paul A. Magnuson
United States District Court Judge